

## **REMARKS**

Applicants acknowledge that the Examiner has not considered certain references cited in their Information Disclosure Statement filed November 25, 2002. Although Applicants believes all cited references were previously provided,<sup>1</sup> Applicants will provide supplementary copies of these references for the Examiner's convenience.

Applicants have amended claim 7 to overcome the objection to claims 7-15 for being drawn to non-elected products.

**A. Claims 3 and 4 are not indefinite under 35 U.S.C. §112, 2d paragraph.**

Claims 3 and 4 stand rejected on 35 U.S.C. §112, 2<sup>nd</sup> paragraph grounds as being indefinite for failing to explicitly recite the stringency conditions in the claims. Applicants have amended these claims to recite hybridization and stringency conditions. Support for these amendments can be found, inter alia, in the specification as filed in Example 22, page 92. Applicants respectfully contend that these amendments overcome the asserted grounds of rejection, and request that the Examiner withdraw this ground of rejection in view of these amendments.

**B. The claims are not anticipated by the cited reference.**

The pending claims stand rejected on 35 U.S.C. §102(e) grounds over the disclosure of U.S. Patent No. 6,485,947. Specifically, the Examiner points to the disclosure found at columns 28-29 of the '947 patent as providing an anticipating disclosure.

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<sup>1</sup> Applicants are providing only certain portions of the Sambrook *et al.* and Danner *et al.* references cited in their specification, in view of the length of these references.

Applicants respectfully traverse this ground of rejection. It is axiomatic that a claim is only anticipated if each and every limitation of the claim is found in a single prior art reference. *Kalman v. Kimberly-Clark*, 713 F.2d 760,771 Fed. Cir. 1983. Every pending claim of the instant application contains the limitation that the claimed yeast lactate dehydrogenase has an amino acid sequence identified in SEQ. ID No. 22. Applicants respectfully contend that the '947 patent does not disclose this amino acid sequence and thus that it does not anticipate the pending claims. Accordingly, Applicants respectfully request that the Examiner withdraw this ground of rejection.

### CONCLUSION

It is believed that all requirements of patentability are fully met, and that the claims are free of the prior art. Allowance of the claims is thereby respectfully solicited.

If the Examiner in charge of this application believes it to be helpful, he or she is invited to contact the undersigned attorney by telephone at (312) 913-0001.

Respectfully submitted,  
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